

STATEMENT OF CASE

1 APPELLANT WAS CHARGED WITH MURDER WITH THE USE OF A DEADLY WEAPON
2 AND ROBBERY WITH THE USE OF A DEADLY WEAPON AT PRELIMINARY HEARING ON 8-
3 25-97 THE APPELLANT WAS BOUND OVER AND HELD TO ANSWER TO THE ABOVE CHARGE
4 ON 9-28-88 ON SAID DATE APPELLANT ENTERED A PLEA OF NOT GUILTY TO ABOVE
5 MENTIONEDCHARGES AND MATTER WAS SET FOR JURY TRIAL.ON OCT 12, 1988

6 APPELLANT PLED GUILTY PURSUANT TO PLEA NEGOTIATIONS TO COUNT I OF THE
7 INFORMATION CHARGING HIM WITH MURDER WITH THE USE OF A DEADLY WEAPON
8 AND BECAUSE THE APPELLANT WAS 16 AND HAD TO BE CERTIFIED . IN THE
9 CIURT OF THE NONORABLE EARL WHITE DISTRICT COURT JUDGEIN AND FOR THE
10 EIGHT DISTRICT COURT IN AND FOR THE COUNTY OF CLARK . ON 11-28-88
11 appellant was GRANTED A CONTINUANCE BECAUSE HIS PARENTS WERE ATTEMPTING
12 TO OBTAIN PRIVATE COUNSEL IN ORDER TO DISCHARGE CURRENT COUNSEL APPOINTED
13 BY COURT. ON DEC 12,1988 APPELLANT SENTENCING HEARING WAS CONDUCTED
14 AT WHICH TIME THE DISTRICT COURT JUDGE IMPOSED SENTENCE OF LIFE WITHOUT
15 THE POSSIBLEITY OF PAROLE .
16
17
18
19
20
21
22
23
24
25
26
27
28

ISSUES

NRS 213.085 HAS MADE PETITIONERS SENTENCE ILLEGAL

(1) PETITIONERS SENTENCE HAS BECOME AND STILL IS FACIALLY ILLGAL UNDER EXPO FACTO WHICH IS A CONSTITUTIONAL VIOLATION.

(2) THE REMENDY GIVEN IN MILLER V WARDEN IS IMPROPER AND THE PROPER REMENDY IS TO RESENEENCED TO LIFE WITH THE POSSIBILTY OF PAROLE OF BE RELEASED UNDER NRS 34.500 (9).

(3) SENTENCE BECAME ILLEGAL UNDER LOZADA V DEEDS WHEN JUDGE STATED YOU DONT HAVE A RIGHT TO APPEAL CONVICTION OR SENTENCE.(ON RECORD)

(4) MOTION TO CORRECT AN ILLEGAL SENTENCE IS CORRECT WHERE THERE WAS A MISUNDERSTANDING OF PETITIONERS AGE BY THE DISTRICT ATTORNEY THE COURT APPOINTED COUNSEL AND THE JUDGE.(ON RECORD AT PLEA HEARING)

RULING CASE LAW LIES SQUARLY ON PETITIONERS SIDE WEAVER V GRAHAM 101Sct 960 (1981) FEDERAL COURTS 513- PROPER RELIEF UPON A CONCLUSION THAT A STATE PRISONER IS BEING TREATED UNDER AN EX POST FACTO LAW IS TO REMAND TO PERMIT THE STATE COURT TO APPLY IF POSSIBLE THE LAW IN PLACE WHEN HIS CRIME OCCURED. U.S.C.C. CONST ART 1, 10,c1, 1.

IN THE INSTANT CASE BEFORE THE COURT IT IS NOT POSSIBLE TO APPLY THE LAW IN PLACE WHEN THE CRIME OCCURRED THE BOARD HAS BEEN TAINTED BY KNOWING AND APPLYING SUCH ALAW . U.S. V PASKOW 11F3d 873(9thcir1993) MILLER V FLORIDA 107Sct2446(1987) CONSTITUTIONAL LAW 199 CONSTITUTIONAL LAW199 CONSTITUTIONAL PROHIBITION AGAINST EX POST FACTO LAWS CANNOT BE AVOIDED MERELY BY ADDING TO LAW NOTICE THAT IT MIGHT BE CHANGED. CONSTITUTIONAL LAW 203 CRIMINAL LAW 1208.1(3) application of revised sentencing guidelines to DEFENDANT , WHOSE CRIMES OCCURRED BEFORE THEIR EFFECTIVE DATE, DISADVANTAGED DEFENDANT BY INCREASING DATE, DISADVANTAGED DEFENDANT BY INCREASING PRESUMPTIVE SENTENCE AND VIOLATED EX POST FACTO CLAUSE; ALTHOUGH TRIAL JUDGE COULD HAVE IMPOSED SAME SENTENCE UNDER ...

FILED

1 CASE NO. C85078

2 DEPT NO. IV

SEP 5 12 31 PM '97

3 JIMMIE DAVIS

4 Petitioner,

5 vs.

AFFIDAVIT IN SUPPORT OF MOTION
TO PROCEED IN FORMA PAUPERIS6 THE STATE OF NEVADA,
7 Respondent.

8
9 I, JIMMIE DAVIS, HEREBY DECLARE UNDER PENALTY OF
10 PERJURY THAT I AM THE PETITIONER IN THE ABOVE ENTITLED MATTER, THAT I AM
11 INCARCERATED AT THE CARSONCITY NEVADA STATE PRISON, THAT I MAKE THE
12 FOLLOWING ASSERTATIONS IN SUPPORT OF MY MOTION FOR LEAVE TO PROCEED IN
13 FORMA PAUPERIS, WITHOUT BEING REQUIRED TO PRE-PAY THE COST, OR TO GIVE
14 SECURITY THEREOF THAT BECAUSE OF MY POVERTY I AM UNABLE TO PAY THE COST
15 OF PROSECUTING THE FOREGOING ACTION.

16 I, DECLARE UNDER PENALTY OF PERJURY THAT THE FOLLOWING STATEMENTS
17 ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

18 1. THAT I SO NOT REQUEST THAT AN ATTORNEY BE APPOINTED TO REPRESENT
19 ME TO PRESECUTE THIS ACTION.

20 2. THAT I AM NOT PRESENTLY EMPLOYED AND THAT I HAVE NOT BEEN EMPLOYED
21 WITHIN THE PAST TWELVE MONTHS.

22 3. THAT I HAVE NOT RECEIVED WITHIN THE PAST TWELVE MONTHS ANY MONEY
23 FROM THE FOLLOWING SOURCES:

- 24 a. BUINESS, PROFESSIONAL OR FORM OF SELF EMPLOYMENT.
- 25 b. RENT PAYMENTS, INTREST OR DIVIDENDS, PENSIONS, OR LIFE INSURANCE.
- 26 c. GIFTS, INHERITANCES, OR ANY OTHER SOURCES
- 27 d. THAT I DO NOT HAVE A CHECKINGS OR SAVINGS ACCOUNT(S).
- 28 e. THAT I DO NOT OWN ANY REALESTATE, AUTHMOBILES, STOCKS, BONDS, NOTES,

SEP 05 1997

RECEIVED

STATEMENT OF CASE

1 APPELLANT WAS CHARGED WITH MURDER WITH THE USE OF A DEADLY WEAPON
2 AND ROBBERY WITH THE USE OF A DEADLY WEAPON AT PRELIMINARY HEARING ON 8-
3 25-97 THE APPELLANT WAS BOUND OVER AND HELD TO ANSWER TO THE ABOVE CHARGE
4 ON 9-28-88 ON SAID DATE APPELLANT ENTERED A PLEA OF NOT GUILTY TO ABOVE
5 MENTIONEDCHARGES AND MATTER WAS SET FOR JURY TRIAL.ON OCT 12, 1988

6 APPELLANT PLED GUILTY PURSUANT TO PLEA NEGOTIATIONS TO COUNT I OF THE
7 INFORMATION CHARGING HIM WITH MURDER WITH THE USE OF A DEADLY WEAPON
8 AND BECAUSE THE APPELLANT WAS 16 AND HAD TO BE CERTIFIED . IN THE
9 CIURT OF THE NONORABLE EARL WHITE DISTRICT COURT JUDGEIN AND FOR THE
10 EIGHT DISTRICT COURT IN AND FOR THE COUNTY OF CLARK . ON 11-28-88
11 appellant was GRANTED A CONTINUANCE BECAUSE HIS PARENTS WERE ATTEMPTING
12 TO OBTAIN PRIVATE COUNSEL IN ORDER TO DISCHARGE CURRENT COUNSEL APPOINTED
13 BY COURT. ON DEC 12,1988 APPELLANT SENTENCING HEARING WAS CONDUCTED
14 AT WHICH TIME THE DISTRICT COURT JUDGE IMPOSED SENTENCE OF LIFE WITHOUT
15 THE POSSIBLEITY OF PAROLE .
16
17
18
19
20
21
22
23
24
25
26
27
28

ISSUES

NRS 213.085 HAS MADE PETITIONERS SENTENCE ILLEGAL

(1) PETITIONERS SENTENCE HAS BECOME AND STILL IS FACIALLY ILLGAL UNDER EXPO FACTO WHICH IS A CONSTITUTIONAL VIOLATION.

(2) THE REMENDY GIVEN IN MILLER V WARDEN IS IMPROPER AND THE PROPER REMENDY IS TO RESENEENCED TO LIFE WITH THE POSSIBILTY OF PAROLE OF BE RELEASED UNDER NRS 34.500 (9).

(3) SENTENCE BECAME ILLEGAL UNDER LOZADA V DEEDS WHEN JUDGE STATED YOU DONT HAVE A RIGHT TO APPEAL CONVICTION OR SENTENCE.(ON RECORD)

(4) MOTION TO CORRECT AN ILLEGAL SENTENCE IS CORRECT WHERE THERE WAS A MISUNDERSTANDING OF PETITIONERS AGE BY THE DISTRICT ATTORNEY THE COURT APPOINTED COUNSEL AND THE JUDGE.(ON RECORD AT PLEA HEARING)

RULING CASE LAW LIES SQUARLY ON PETITIONERS SIDE WEAVER V GRAHAM 101Sct 960 (1981) FEDERAL COURTS 513- PROPER RELIEF UPON A CONCLUSION THAT A STATE PRISONER IS BEING TREATED UNDER AN EX POST FACTO LAW IS TO REMAND TO PERMIT THE STATE COURT TO APPLY IF POSSIBLE THE LAW IN PLACE WHEN HIS CRIME OCCURED. U.S.C.C. CONST ART 1, 10,c1, 1.

IN THE INSTANT CASE BEFORE THE COURT IT IS NOT POSSIBLE TO APPLY THE LAW IN PLACE WHEN THE CRIME OCCURRED THE BOARD HAS BEEN TAINTED BY KNOWING AND APPLYING SUCH ALAW . U.S. V PASKOW 11F3d 873(9thcir1993) MILLER V FLORIDA 107Sct2446(1987) CONSTITUTIONAL LAW 199 CONSTITUTIONAL LAW199 CONSTITUTIONAL PROHIBITION AGAINST EX POST FACTO LAWS CANNOT BE AVOIDED MERELY BY ADDING TO LAW NOTICE THAT IT MIGHT BE CHANGED.

CONSTITUTIONAL LAW 203 CRIMINAL LAW 1208.1(3) application of revised sentencing guidelines to DEFENDANT , WHOSE CRIMES OCCURRED BEFORE THEIR EFFECTIVE DATE, DISADVANTAGED DEFENDANT BY INCREASING DATE, DISADVANTAGED DEFENDANT BY INCREASING PRESUMPTIVE SENTENCE AND VIOLATED EX POST FACTO CLAUSE; ALTHOUGH TRIAL JUDGE COULD HAVE IMPOSED SAME SENTENCE UNDER OLD

1 GUIDELINES BY DEPARTING FROM PRESUMPTIVE SENTENCE RANGE THEN IN EXISTENCE
 2 REVISED LAW FORECLOSED DEFENDANTS ABILITY TO CHALLENGE SENTENCE ON
 3 REVIEW BECAUSE IT WAS WITHIN NEW PRESUMPTIVE RANGE U.S.C.A.Const Art
 4 1, 9, cl, 1.

5 THE ONLY REMEDY AVAILBLE TO PETITIONER IS TO HAVE THE CURRENT
 6 SENTENCE WITHOUT VACATED AND TO BE RESENTENCED TO LIFE WITH THE POSSIBLEITY
 7 OF PAROLE ALLOWING FOR REVIEW WHICH WAS THE UNDERSTANDING AT THE TIME OF
 8 SENTENCE AND THE APPLICABLE LAW. AND OR TO BE RELEASED UNDER NRS 34.500(9)
 9 accordly with the law. CITING STATE V YELLOW MEXICAN 688p2d 1097(1984)
 10 THERE ARE TWO BASIC ELEMENTS NECESSARY FOR A CRIMINAL LAW TO BE EX POST
 11 FACTO (1) IT MUST BE APPLIED RETROACTIVELY APPLY TO EVENTS OCCURING
 12 BEFORE ITS ENACTMENT AND (2) IT MUST DISADVANTAGE THE OFFENDER AFFECTED
 13 BY IT ID AT 29 101 Sct at 964 WEAVER V GRAHM 450 U.S. at 28-29 101Sct 964
 14 THE PRESENCE OR ABSENCE OF AN AFFIRMATIVE ENFORCEABLE RIGHT IS NOT RELEVANT
 15 HOWEVER TO THE EX POST FACTO PROHIBITION WHICH FORBIDS THE IMPOSITION
 16 OF PUNISHMENT MORE SEVERE THAN THE PUNISHMENT ASSIGNED BY LAW WHEN THE
 17 ACT TO BE PUNISHED OCCURED. CRITICAL TO RELIEF UNDER THE EX POST FACTO
 18 CLAUSE IS NOT AN INDIVIDUALS RIGHT TO LESS PUNISHMENT BUT THE LACK
 19 OF FAIR NOTICE AND GOVERMENTAL RESTRAINT WHEN THE LEGISLATURE INCREASES
 20 PUNISHMENT BEYOUND WHAT WAS PRESCRIBED WHEN THE CRIME WAS CONSUMMATED
 21 THUS EVEN IF A STATUTE MERELY ALTERS PENAL PROVISIONS ACCORDED BY THE
 22 GRACE OF THE LEGISLATURE IT VIOLATES THE CLAUSE IF IT BOTH IS RETRO-
 23 SPECTIVE AND MORE ONEROUS THAN THE LAW IN EFFECT ON THE DATE OF THE
 24 OFFENCE THE BAN ALSO RESTRICTS GOVERMENTAL POWER BY RESTRAINING ABITRARY
 25 AND POTENTIALLY VINDICTIVE LEGISLATION. MOLLOY V SOUTH CAROLINA 23 US 180
 26 183, 35Sct 507, 508.

27 Qoloting; we have previously recognized that a prisoners eligibility
 28 for reduced imprisonment is a significant factor entering into both

1 the defendants decision to plea bargain and the judges calculation of
2 the sentence to be imposed.

3 WHICH IS THE CASE IN THE CASE NOW BEFORE THE COURT , PETITIONER
4 PLEADED GUILTY WITH THE UNDERSTANDING THAT SOME TIME IN THE FUTURE
5 HE WOULD BE ABLE TO RECIEVE A FAIR AND JUST HEARING AT REVIEW , WITH
6 THE NEW LAW WHICH IS STILL IN EFFECT THIS IS NOT POSSIBLE BECAUSE HE HAS
7 NOW BEEN STIGMATIZED AND THE BOARD HAS BEEN TAINTED.

8 WHEN THE LAW WAS PASSED PETITIONER RESIDED AT ELY STATE PRISONON
9 THE MEDIUMSECURITY SIDE OF THE PRISON , POINT LEVEL WAS READY FOR TRANSFER
10 WITH THE LESS AS POSSIBLE YOU CAN HAVE TO TRANSFER BUT BECAUSE OF THES
11 LAW PETITIONER WAS TAKEN TO FULL CLASIFICATION AND CLASIFIED TO MAXMUM
12 SUCURITY CLOSED CUSTODY AND LOCKED IN CELL FOR 22 HOURS A DAY UNTIL
13 JAN OF 1997. PETITIONER WAS NOT LOCKED IN CELL FOR DOING ANYTING
14 WRONG BUT IT WAS ONLY BECAUSE OF THE VINDICTIVE LEGISLATION THAT WAS
15 PASSED WHICH THE LAW CLEARLY CLEARLY UNDER EX POST FACTO WAS MADE
16 TO PREVENT THIS TYPE OF ABITRARY AND VINDICTIVE LEGISLATION AGAINST
17 A HUMAN IN VIOLATION OF THE CONSTITUTION . PETITIONER SUBMITS EXHIBIT
18 PAGES 12 to 25 TO SHOW THAT HIS POINT LEVEL WAS ABLE TO
19 BE TRANSFERED IF NOT FOR THE LAW 213.085 WHICH STATES (1) if a person
20 is convicted of murder of the first degree before on or after july 1
21 1995 the board shall not commute (A) A SENTENCE OF DEATH
22 (B) A SENTENCE OF IMPRISONMENT
23 IN THE STATE PRISON FOR LIFE WITHOUT
24 THE POSSIBILITY OF PAROLE TO A SENTENCE
25 THAT WOULD ALLOW PAROLE.

26 NOW PETITIONER WAS ONLY 15 WHEN HE WAS PLACED IN JAIL AND WAS ONLY
27 16 WHEN HE WAS SENT TO PRISON FOR THIS LONG TIME AND IN PLEADING
28 GUILTY TO THE CRIME IT WOULD HAVE HAD TO BE THOUGHT IN HIS MIND

1 AND HIS ATTORNEYS MIND THAT HE WOULD SOME DAY BE REVIEWED FAIRLY
 2 TO SEE IF HE HAS ABIDED BY THE PRISON RULES TO THE POINT THAT
 3 WOULD MERIT A RECONIZED CHANGE FROM CHILD TO MAN, BUT BECAUSE OF
 4 THIS LAW THIS IS IN NO WAY POSSIBLE SEE EXHIBIT PAGES 12 to 25

5 ONCE AGAIN THE CASE LAW OF THE LAND LIES SQUARLY ON THE
 6 PETITIONERS SIDE CITING LERNER V GILL 580 FSUPP 1056 (1984) THIS
 7 ELIGIBILTY CARRIES WITH IT THE OPPORTUNITY TO RESIDE IN THE MINIMUM
 8 SECURITY SECTION OF THE PRISON AND TO PARTICIPATE IN THE WORK
 9 RELEASE OR FURLOUGH PROGRAMS AND THE HOPE THAT AT SOME POINT
 10 AND TIME THE PAROLE BOARD MAY SEE FIT TO GRANT HIM PAROLE. (1) HE HAS
 11 BEEN SUBJECTED TO INCREASE PUNISHMENT IN VIOLATION OF THE PROHIBITION
 12 AGAINST EX POST FACTO LAWS CONTAINED IN THE UNITED STATES CONSTITUTION
 13 ART I SECTION 9 and 10, (2) THAT HE HAS BEEN SUBJECT TO INCREASE PUNISH
 14 MENT IN VIOLATION OF THE GUARANTEE OF DUE PROCESS OF LAW CONTAINED
 15 IN THE FOURTEENTH AMENDMENT AS EXPLIOTED IN BOUW V CITY OF COLUMBLA
 16 378 U.S. 347, 84 sct 1697 17 Led 2d 894 (1964) AND SUBSEQUENT CASES AND
 17 (3) THAT FUNDAMENTAL FAIRNESS IMPOSES A DUE PROCESS OBLIGATION
 18 PREVENTING THE STATE FROM ALTERING ITS EXISTING POLICY TO HIS
 19 DETRIMENT CONSTITUTIONAL LAW 203 PARDON AND PAROLE KEY 50 U.S. v
 20 PASKOW 11f3D 873 (9th cir 1993) citing LINDSEY V STATE OF WASHINGTON
 21 57 Sct at 799 IT IS TRUE THAT PETITIONER MIGHT HAVE BEEN SENTENCED
 22 TO FIFTEEN YEARS UNDER THE OLD STATUTE BUT THE EX POST FACTO CLAUSE
 23 LOOKS TO THE STANDARD OF PUNISHMENT PRESCRIBED BY A STATUTE RATHER
 24 THAN TO THE SENTENCE ACTUALLY IMPOSED. THE CONSTITUTION FORBID THE
 25 APPLICATION OF ANY NEW PUNITIVE MEASURE TO A CRIME ALREADY CONSUMATED
 26 TO THE DETRIMENT OF METERIAL DISADVANTAGE OF THE WRONGDOER. KRIG
 27 V MISSOURI SUPP. 107 U.S. 221, 228 229 2 Sct 443 27 Led. 648 REGARDLESS
 28 OF THE LENTH OF THE SENTENCE ACTUALLY IMPOSED, SINCE THE MEASURE OF

1 PUNISHMENT PRESCRIBED BY THE LATER STATUTE IS MORE SEVERE THAN
 2 THAT OF THE EARLIER, STATE V CALLAHAN 109 La946, 33So 931, STATE V
 3 SMITH, 560r 21, 107 p.980.

4 (3) REMOVAL OF THE POSSIBILTY OF A SENTENCE OF LESS THAN
 5 FIFTEEN YEARS AT THE END OF WHICH PETITIONERS WOULD BE FREED FROM
 6 FUTHER CONFINEMENT AND TUTELAGE OF A PAROLE REVOCABLE AT WILL, OPERATES
 7 TO THEIR DETRIMENT IN THE SENCE THAT THE STANDARD OF PUNISHMENT ADOPTED
 8 BY THE NEW STATUTE IS MORE ONEROUS THAN THAT OF THE OLD. IT COULD HARDLY
 9 BE SAID OR THOUGHT THAT IF A PUVISHMENT FOR MURDER OF LIFE IMPRISONMENT
 10 OR DEATH WERE CHANGED TO DEATH ALONE THE LATER PENALTY COULDBE APPLIED
 11 TO HOMICIDE COMMITTED BEFORE THE CHANGE. MARION V STATE 16 NEB. 349, 20 N.W.
 12 289. YET THIS IS ONLY A MORE STRIKING INSTANCE OF THE DETRIMENT WHICH
 13 ENSUES FROM THE REVISION OF A STATUTE PROVIDING FOR A MAXMUM AND A MINIMUM
 14 PUNISHMENT BY MAKING THE MAXIMUM COMPULSORY. WE NEED NOT INQUIRE
 15 WHETHER THIS IS TECHNICALLY AN INCREASE IN THE PUNISHMENT ANNEXED TO THE
 16 CRIME, SEE CALDER V BULL, SUPRA, 3 DALL. 386, 390, 1 Led 648 IT IS PLAINLY
 17 TO THE SUBSTANTIAL DISADVANTAGE OF PETITIONERS TO BE DEPRIVED OF ALL
 18 OPPORTUNITY TO RECIEVE A SENTENCE WHICH WOULD GIVE FREEDOM FROM CUSTODY
 19 AND CONTROL PRIOR TO THE EXPIRATION OF THE FEFTEEN YEAR TERM.

20 IN THE CASE BEFORE THE COURT NOW THE LAW WAS ALREADY SAID TO BE
 21 UNCONSTITUTIONAL AND EX POST FACTO WHAT IS NOW SOUGHT IS THE PROPER REMEDY
 22 WHICH IS TO APPLY IF POSSIBLE THE LAW IN PLACE WHEN HIS CRIME OCCURRED.
 23 U.S.C.A CONST. ATR, 1, 1, 10, c1, I WEAVER V. GRAHAM CITE AS 101Sct 960
 24 (1981) A SENTENCE OF LIFE WITH THE POSSIBLITY OF PAROLE WOULD ALLOW FOR
 25 A FAIR AND JUST REVIEW.citing DOBERT V FLORIDA 97 Sct 2290 (1977) PAGE
 26 2302(9) It is one thing to find an ex post facto violation where under
 27 the new law a defendant must receive a sentence which would and was under
 28 the old law only the maximum in a discretionary spectrum of length it
 would be another ao do so in a case such as this where the change has had

1 no effect on the defendant in the proceeding of which he complains. IN
2 THE CASE BEFORE THE COURT THIS SENTENCE IS AND WAS ONLY THE MAXIMUM IN
3 IN A DISCRETIONARY SPECTRUM OF LENGTH.
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

JURISDICTION

THIS COURT HAS JURISDICTION TO ENTERTAIN THE
INSTANT MOTION PURSUANT TO NRS 176.555 AND THE
PREVAILING CASE LAW.

IT IS OBVIOUS FROM THE TRACK RECORD OF THE CLARK COUNTY DISTRICT
ATTORNEYS OFFICE IN CASES SUCH AS THE INSTANT CAUSE THAT THE JURISDICTION
ANS SECCESIVE PETITION WILL BE THE PRIMARY DEFENSE RAISED BY THAT OFFICE.
HOWEVER, IT IS PETITIONERS INTENTIONS TO HEAD THAT DEFENSE OFF AT THE
PASS BY DIRECTING THIS COURT TO INTENT OF BOTH THE NEVADA LEGISLATURE
AND THE NEVADA SUPREME COURT WHEN A DISTRICT COURT IS FACED WITH A SEN-
TENCE OF IMPRISONMENT THAT HAS NO LEGAL BEARING.

TH DISTRICT ATTORNEYS OFFICE WILL ARGUE THAT THIS BE TREATED
AS A POST CONVICTION HEABUS CORPUS PETITION AND PROCEDURLY BARED FOR A
SUCCESSIVE PETITION. PETITIONER LOOKS TO HEAD THIS OFF BY STATING THE
FACTS : THIS COULD NOT BE BROUGHT AT THAT TIME IN 1988 BECAUSE THIS
LAW JUST BECAME APPLICABLE IN 1995. UNDER HEABUS CORPUS NRS34.500
GROUNDS FOR DISCHARGE IN CERTAIN CASES IF IT APPEARS ON THE RETURN
OF THE WRIT THAT THE PETITIONER IS IN CUSTODY BY VIRTUE OF PROCESS FROM ANY
COURT OF THIS STATE, JUDGE, OR OFFICE THEREOF, THE PETITIONER MAY BE
DISCHARGED IN THE FOLLOWING CASES: 2 WHEN THE IMPRISONMENT WAS AT
FIRT LAWFUL, YET BY SOME ACT, OMISSION ORR EVENT, WHICH HAS TAKEN
PLACE AFTERWARDS, THE PETITIONER HAS BECOME ENTITLED TO BE DISCHARGED
4 WHEN THE PROCESS THOUGH PROPER IN FORM, HAS BEEN ISSUED IN A CASE
NOT ALOWED BY LAW . 9 WHERE THE COURT FINDS THAT THERE HAS BEEN A
SPECIFIC DENIAL OF THE PETITIONERS CONSTITUTIONAL RIGHTS WITH REGARD
AND RESPECT TO HIS SENTENCE OR CONVICTION IN A CRIMINAL CASE.

NRS 175.555 WHERE ORIGINAL DEATH SENTENCE HAD BEEN INVALIDATED AS A
RESULT OF U.S. SUPREME COURT DECISION DECLARING DEATH PENALTY
UNCONSTITUTIONAL IN CERTAIN CIRCUMSTANCES, DISTRICT JUDGE

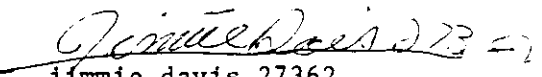
1 POSSIBILITY OF PAROLE BECAUSE UNDER NRS 176.555 ILLEGAL SENTENCE MAY BE
 2 CORRECTED AT ANY TIME AND PENALTY IMPOSED WAS ONLY LAWFUL PENALTY WHICH
 3 COULD HAVE BEEN ENTERED UPON CONVICTION AND FINDING OF JURY THAT DEFENDANT
 4 SHOULD RECEIVE MAXIMUM SENTENCE PERMITTED BY LAW. ANDERSON V STATE 90
 5 NEV 385, 528 p2d 1023 (1974) cited, SUMMERS V STATE 90 NEV 460 STATE
 6 V EIGHTH JUDICIAL DIST COURT 100 NEV. at 109, 677 P2d 1044 (1984).

7 IN THE INSTANCE CASE BEFORE THE COURT THE PETITIONER ASKS TO BE
 8 RESENTENCED BECAUSE THE LAW OF HIS SENTENCE WAS FOUND TO BE UNCONSTITUTIONAL
 9 AND AT THE TIME HE WAS SENTENCED THE UNDERSTANDING WAS THAT
 10 HE BE REVIEWED AT SOME POINT AND TIME, NOT RELEASED BUT REVIEWED. BECAUSE
 11 OF THIS LAW THIS IS NO LONGER POSSIBLE BY ANY MEANS OR IN A FAIR
 12 SENCE, THE BOARD HAS ALREADY BEEN TAINTED BY SUCH A LAW MAKING IT
 13 IMPOSSIBLE FOR PETITIONER TO RECIEVE A FAIR AND JUST HEARING WHICH
 14 BRINGS PETITIONER TO BRING THIS PETITIONER BEFORE THIS COURT TO BE
 15 RESENTENCED TO LIFE WITH THE POSSIBLITY OF PAROLE WHICH IS THE ONLY
 16 REMENDY APPLICABLE TO PETITIONERWHICH WOULD GIVE APPELLANT A FAIR AND
 17 JUST HEARING AFTER A FINDING THAT THE COURT OF THE STATE OF NEVADA
 18 SUPREME COURT HAS FOUND THIS LAW TO BE UNCONSTITTUTIONAL AND
 19 EX POST FACTO SEE MILLER V WARDEN 921 P2d 882(1996).

20 IN THE CASE BEFORE THE COURT PETITIONER WAS SENTENCED TO LIFE
 21 WITHOUT THE POSSIBILTY OF PAROLE IN 1988 NRS 213.085 WAS PASSED
 22 ON AND ABOUT JAN 1995 AND WAS FOUND TO BE UNCONSTITUTIONAL ON JULY
 23 22, 1996 UNDER EX POST FACTO BUT IS STILL UPHELD AND USED SEE SOONER
 24 V STATE 930p2d 707 NEV DECIDED DEC 20 1996. WHICH SHOWS BEYOND A
 25 DOUBT THAT THE PETITIONER CAN NOT RECIEVE A FAIR HEARING UNLESS
 26 HE IS RESENTENCED TOLIFE WITHTHE POSSIBLITY OF PAROLESO THAT HE WILL
 27 BE ABLE TO RECIEVE A FAIR AND JUST HEARING BY BEING REVIEWED NOT
 28 RELEASDBUT BE GIVEN THE OPPERTUNITY TO BE REVIEWED . PETITIONER

1 FUTHER SUBMITS THAT CONSTITUTIONAL, STATUTORY, AND CASE LAW LIES SQUARLY
2 ON HIS SIDE AND THIS COURT DOESE HAVE JURISDICTION TO ENTERTAIN THE
3 INSTANT PLEADING.
4
5
6
7
8
9
10

11 RESPECTFULLY SUBMITTED THIS 26 DAY OF APRIL 11997
12

13 
14 jimmie davis 27362
15 PO BOX 607
16 CARSON CITY NEVADA
17 9 89702
18
19
20
21
22
23
24
25
26
27
28

NEVADA DEPARTMENT OF PRISONS
OFFICE
MEMORANDUM

TO:

FROM:

SUBJECT: Transfer

DATE: November 19, 1996

Your letter to Director Bayer regarding a transfer the Ely State Prison has been referred to the Classification and Planning Division for a response. The Central Classification Division of the Department does not initiate transfers for inmates. This is the prerogative of the institutional classification committee, as they are more familiar with individual case factors than we are.

As the law relative to persons with Life Without sentences having access to the Pardon's Board has been overturned in the courts, the transfer of inmates with a Life Without sentences is once again an option for institutional classification committees. I would suggest that you contact the local staff if that is your desire.

GW:scc

1 PAGES 12 to 25 are based on a point level that is, IF YOU
2 HAVE 18 OR OVER POINTS YOU CANNOT BE CONSIDERED FOR TRANSFER ,
3 IF YOU HAVE 17 AND UNDER YOU CAN LEAVE. PETITIONER HAD 6 and 4
4 POINTA FROM JAN OF 1991 to JAN 1997but was still led on that
he could leave but never realy could and has still yet to see his
family and is even farther away and still maintain a good prison
record.

5 BUT BECAUSE OF THIS LAW HE IS STILL NOT ALLOWED TO TRANSFER TO
6 A CORRECTIONAL FACILTY BUT MUST A STAY IN A STATE PRISON.

NEVADA DEPARTMENT OF PRISON

"INMATE INTERVIEW REQUEST"

"LONG FORM"

DATE: 12-5-96

TO: UNIT 7a COUNSLOR MSWOODS

TITLE:

SUBJECT: TRANSFER

DETAILED EXPLANATION

I have been here in Ely state Prison since Jan. 1991

I have 4 points. I have never been to the hole.

Please let me know when I will be eligible to transfer?

If I am eligible I would like to be placed in for a transfer,

to any prison.

INMATE NAME: JIMMIE DAVIS

DOP # 27362


LOCATION: 7-A30

RESPONSE

You may make your
request at your next
Reclassification Review

3/97

DATE: 12-5-96 SIGNED BY:



NEVADA DEPARTMENT OF PRISONS

"INMATE INTERVIEW REQUEST""LONG FORM"DATE: 2-19-93TO: Unit 8B Counselor

TITLE: _____

SUBJECT: ClassificationDETAILED EXPLANATION

I would like to request a full classification hearing.

I know you told me I was on the list, but I've been on that for three years and still nothing happens while others who came after still leave.

So I would like to know or rather request a full classification hearing at this time and 2-19-93.

Respectfully
Submitted

INMATE NAME: Jimmie DavisDOP # 27362 LOCATION: 8-B48RESPONSE

Again you are on the list as interested in a transfer.

I will not take you to Full Committee, because that is what they are going to tell you.

There will be no one taken to Full Committee re: transfer - until there are beds at other institutions to transfer to.

DATE: 2/22/94SIGNED BY: Cyren, OCWS

NEVADA DEPARTMENT OF PRISON

"INMATE INTERVIEW REQUEST"

"LONG FORM"DATE: 7-4-96TO: Unit Counselor of 7

TITLE: _____

SUBJECT: TransferDETAILED EXPLANATION

I have not seen my mother in seven years, I have maintained 4 points for 7 years I would like to be transfered to Indian Springs so that I may see my family which is closer to Las Vegas.

PLEASE Respond and let me know the truth of the matter and have been given false hope for seven years.

INMATE NAME: JIMMIE DAVIS DOP # 22362 LOCATION: C-7-A-30

RESPONSE

DATE: _____

SIGNED BY: _____

NEVADA DEPARTMENT OF PRISONS

"INMATE INTERVIEW REQUEST""LONG FORM"DATE: 4-8-94TO: Unit 8 Counselor

TITLE: _____

SUBJECT: CommunicationDETAILED EXPLANATION

I would like to request a full explanation for the above stated information. I have been up the 4th grade in school and I have decided to make a change in my life. I have been in trouble and I have been in prison. I know that more people are in prison and I have been in prison. I have been in prison and I have been in prison. I would like to see the full explanation to get some idea of the situation and the situation.

INMATE NAME: JIMMIE DAVIS DOP # 27362 LOCATION: 8B-48RESPONSE

DATE: _____ SIGNED BY: _____

NEVADA DEPARTMENT OF PRISON

"INMATE INTERVIEW REQUEST""LONG FORM"DATE: 12-9-93TO: Unit 88Counselor

TITLE: _____

SUBJECT: ClassificationDETAILED EXPLANATION

My Name is Jimmie Davis 27362 I talked to you in the unit and you told me to send you a kite.

I would like to know when I get a regular review classification? And at this time I would like to request to get a full classification instead of a regular review. So could you please let me know when is my regular review and can I be placed in for a full classification? I only have 6 points or less plus I have been up here since 1991 without any trouble at all.

Respectfully submitter

INMATE NAME: Jimmie DavisDOP # 27362 LOCATION: 8-B-48RESPONSE

Your points are 4. your next review will be in January. we will discuss the possibility of transfer then.

DATE: 12/25/93SIGNED BY: [Signature]OCWST

2025-06-10/86

NEVADA DEPARTMENT OF PRISON

"INMATE INTERVIEW REQUEST"

"LONG FORM"

DATE: 3-14-93TO: Unit 6 Counselor

TITLE: _____

SUBJECT: Transfer

DETAILED EXPLANATION

I would like to know if I am on the list for transfer?
 I was placed in a kite about this in 1991 Feb about going
 down South.

If I am not I would like to be placed on the list for
 transfer down South to S.D.C.C so that I may be closer
 to my family. I have not asked in over 2 years so I would
 like to know if this is possible?

first kite

INMATE NAME: Jimmie Davis DOP # 29362 LOCATION: 6-B-2

RESPONSE

Mr. Davis:

I have submitted your name on the transfer list
 for SDCC a Southern Institution.

Right now, there are no transfers. Inmates are leaving
 for other reasons per Central office.

A lot of transfer are timing and luck. So, don't
 get discouraged. Things will go to you if you
 remain patient!

DATE: 3/23/93SIGNED BY: T. Jackson, Caus I

NEVADA DEPARTMENT OF PRISON

"INMATE INTERVIEW REQUEST""LONG FORM"DATE: 10-15-93TO: Warden Wolf

TITLE: _____

SUBJECT: TransferDETAILED EXPLANATION

I would like to be taken to a full classification or have my file reviewed for transfer because I have been in prison since I turned 16 and am now age 22 and would like to be transferred to SNCC or SDC. I only have 6 points and have been in no trouble since I have been locked up. I came to Ely Jan 15, 1991 and have had no write ups up in Ely. I would really like to see my family. If you can please review my file you will see I have been very good.

Respectfully Submitted

INMATE NAME: Jimmie DavisDOP # 27362 LOCATION: 8-B-48RESPONSE

I have placed you on a roster for transfer North or South. At present there are no transfers either North or South. If an opening takes place you will be given equal consideration.

DATE: 10/26/93SIGNED BY: CCWS-T

NEVADA DEPARTMENT OF PRISONS

"INMATE INTERVIEW REQUEST""LONG FORM"DATE: 10-15-93TO: Warden Wolf

TITLE: _____

SUBJECT: TransferDETAILED EXPLANATION

I would like to be taken to a full classification or have my letter reviewed for transfer because I have been in prison since I turned 16 and am now aging on 22. I would like to be transferred to SCCC or SCCC. I only have 6 cents and have been in my trouble since I have been locked up. I came to Ely Jan 15, 1991 and have had no write ups in Ely. I would really like to see my family. If you can please consider my file you will see I have been very good.

Respectfully Submitted

INMATE NAME: Immie Davis DOP: 27362 LOCATION: 8B-48RESPONSE

DATE: _____

SIGNED BY: _____

2025-10-10/10/80

NEVADA DEPARTMENT OF PRISONS

"INMATE INTERVIEW REQUEST""LONG FORM"DATE: 10-20-93TO: Init 8B Counselor

TITLE: _____

SUBJECT: -transferDETAILED EXPLANATION

I would like to be placed in for a transfer & I only have six points. SNCC or SDC

I would also like to know when I go to my six month review and at that time will I be able to go to a full classification to have my file reviewed.

So could you please review my file and see that I have been good.

also I have been locked up since I was 16 and am now 22 and would like to see my mother

INMATE NAME: Jimmie Davis DOP # 17362 LOCATION: 8B48

RESPONSE

You have been placed on a list I maintain for transfer south.

Please realize it could be a long wait.

DATE: 10/25/93SIGNED BY: Alphonse-Cousin

NEVADA DEPARTMENT OF PRISONS

"INMATE INTERVIEW REQUEST"

"LONG FORM"

DATE: 10-20-93

TITLE:

TO: Unit 8B Counselor

SUBJECT: Sanchez

DETAILED EXPLANATION

I would like to be placed for a transfer of
my DWP six points. Since I am a DWP

I would also like to know when I am to my
six month review and at that time will I be
able to go to a full classification to have my file
reviewed.

So could you please review my file and see that
it have been good.

as I have been locked up since then. Respectfully

I am now 27 and would like to see my file submitted
7/10/93

INMATE NAME: Lamine Davis

DOP # 27363 LOCATION: 8B/18

RESPONSE

You have been placed on a list I maintain
for transfers south.

Please realize it could be a long wait.

DATE: 11/25/93

SIGNED BY: [Signature] - CUST

NEVADA DEPARTMENT OF PRISON

"INMATE INTERVIEW REQUEST""LONG FORM"DATE: 4-8-94TO: Unit 8 Counselor

TITLE: _____

SUBJECT: ClassificationDETAILED EXPLANATION

I would like to request a full classification hearing, or be placed in for a full classification hearing. I have been up here 4 years without a write up and I have seen other inmates go to full classification who have been in trouble and then leave from up here who I know have more points than me. I have put in for other jobs and I can't get them, or I don't even get an answer back. I have been in the canteen 2 straight years without a problem. I would like to go to a full classification to get some type of help with my situation. I have a number amount of problems.

INMATE NAME: JIMMIE DAVIS DOP # 27362 LOCATION: 8B-48RESPONSE

Currently there are no beds - or movement for us down there. Your name is on the list - when a bed becomes available for you, you will go in front of classification.

DATE: 5/4/94 SIGNED BY: W's. Al H

NEVADA DEPARTMENT OF PRISON'S

"INMATE INTERVIEW REQUEST""LONG FORM"

DATE: 10-7-99

TO: Unit 8 Prisoner TITLE:

SUBJECT:

DETAILED EXPLANATION

I like to be placed in the same cell as my brother (six points). I am a good person.

I would also like to know if I can get a job in the prison. I am a good person and I am able to do a full day's work. I am a good person and I am able to do a full day's work.

I could use a job in the prison. I am a good person and I am able to do a full day's work.

I am a good person and I am able to do a full day's work. I am a good person and I am able to do a full day's work.

INMATE NAME: 10-7-99 DOP # 27265 LOCATION: 8-11-99

RESPONSE

DATE: SIGNED BY:

NEVADA DEPARTMENT OF PRISONS

INMATE INTERVIEW REQUEST

LONG FORM

DATE: 12-9-98

TITLE:

TO: Unit 8B Counselor

SUBJECT: Classification

DETAILED EXPLANATION

My Name is Jimmie Davis 27362 I talked to you in the unit and unit told me to come for a kite.

I would like to know if I can have a regular review classification? And at this time I would like to request to go to a full classification instead of a regular review. So could you please let me know when is my regular review and can I be placed in for a full classification? I only have 6 months less time I have been up here since 1991. I have been here since 1991.

Respectfully your inmate

INMATE NAME: Jimmie Davis

IDOP: 27362

LOCATION: 8B48

RESPONSE

DATE: SIGNED BY:

FILED

FEB 17 8 11 AM '98

1 **ORDR**
2 STEWART L. BELL
3 DISTRICT ATTORNEY
4 Nevada Bar #000477
5 200 S. Third Street
6 Las Vegas, Nevada 89155
7 (702) 455-4711
8 Attorney for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

8 THE STATE OF NEVADA,

9 Plaintiff,

10 -vs-

11 JIMMIE DAVIS,

12 Defendant.
13
14

Case No. C85078
Dept No. XIV
Docket T

15 ORDER DENYING DEFENDANT'S MOTION TO CORRECT ILLEGAL SENTENCE

16 DATE OF HEARING: 11/21/97
17 TIME OF HEARING: 9:00 A.M.

18 THIS MATTER having come on for hearing before the above entitled Court on the 21st
19 day of November, 1997, the Defendant not being present, in proper person, the Plaintiff being
20 represented by STEWART L. BELL, District Attorney, through WILLIAM HEHN, Deputy
21 District Attorney, and the Court having heard the arguments of counsel and good cause
22 appearing therefor,

23 //

24 //

25 //

26 //

27 //

28 //

9601 11 1998

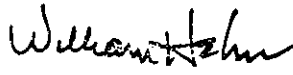
5

1 IT IS HEREBY ORDERED that the Defendant's Motion to Correct Illegal Sentence, shall
2 be, and it is denied.

3 DATED this 12th day of February, 1998.

4 
5 DISTRICT JUDGE
6
7

8 STEWART L. BELL
9 DISTRICT ATTORNEY
Nevada Bar #000477

10 
11 BY
12 WILLIAM HEHN
Deputy District Attorney
13 Nevada Bar #001538
14
15
16
17
18
19
20
21
22
23
24
25
26
27

28 mmw

DISTRICT COURT
CLARK COUNTY NEVADA

JIMMIE DAVIS,
PETITIONER,
VS
THE STATE OF NEVADA,
RESPONDENT.

Dec 8 4 4 PM '97

CASE NO. C85078

DEPT NO. XIV

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT JIMMIE DAVIS HEREBY APPEALS
THE ORDER OF DENIAL ENTERED IN THIS COURT ON OR ABOUT THE 14
DAY OF NOVEMBER 1997. ENTERED ON THE MOTION TO CORRECT AN
ILLEGAL SENTENCE.

DATED THIS 3 DAY OF December 1997

JIMMIE DAVIS 27362

JIMMIE DAVIS 27362
PO BOX 607
CARSON CITY NEVADA 89702

COUNTY CLERK

DEC 08 1997

RECEIVED

8

JIMMIE DAVIS,

No. 28400

Appellant,

FILED

vs.

MAR 04 1999

THE STATE OF NEVADA,

Respondent.

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. R. [Signature]*
CHIEF DEPUTY CLERK

JIMMIE DAVIS,

No. 31521

Appellant,

vs.

THE STATE OF NEVADA,

Respondent.

ORDER DISMISSING APPEALS

Docket No. 28400 is a proper person appeal from an order of the district court denying appellant's post-conviction petition for a writ of habeas corpus. Docket No. 31521 is a proper person appeal from a district court order denying appellant's motion to correct an illegal sentence.

On December 20, 1988, the district court convicted appellant, pursuant to a guilty plea, of one count of first degree murder. The district court sentenced appellant to serve a term of life without the possibility of parole in the Nevada State Prison. Appellant did not appeal.

Appellant filed a timely petition for post-conviction relief in 1989. The district court appointed counsel, and ultimately denied the petition. This court dismissed appellant's appeal. Davis v. State, Docket No. 23338 (Order Dismissing Appeal, January 24, 1995). Appellant subsequently filed a motion to vacate his sentence, challenging errors in the presentence report. The district court denied the motion, and appellant did not appeal.

On September 9, 1995, appellant filed the instant post-conviction petition for a writ of habeas corpus in the district court. The district court appointed counsel and

permitted further briefing. The state opposed the petition. On March 4, 1996, the district court denied appellant's petition. This appeal followed and is docketed as Docket No. 28400.

On September 5, 1997, appellant filed a motion to correct an illegal sentence. The district court summarily denied the motion, and the appeal followed. The appeal is docketed as Docket No. 31521. We consolidate these appeals for disposition. NRAP 3(b).


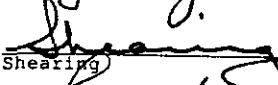
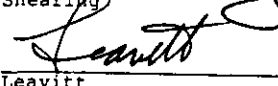
In his habeas petition, appellant challenged the legality of his confession, charging that his Miranda rights had been violated; he claimed his counsel had been ineffective for failing to advise him regarding his right to appeal and for failing to move to dismiss a robbery charge; and he asserted that his plea was coerced and involuntary.

Our review of the records on appeal reveals that the district court did not err in denying the petition. Appellant's petition was successive, and he failed to demonstrate good cause for raising claims which he had previously raised or for raising claims which he could have raised in a direct appeal or in a prior petition. And appellant failed to demonstrate prejudice. See NRS 34.810(2)(b) (providing that the district court shall dismiss a petition if the claims could have been raised in prior proceedings or if the petitioner raises again claims which were adjudicated in a prior petition). Thus, appellant's petition was procedurally barred.

In his motion to correct an illegal sentence appellant claimed that his sentence had been rendered constitutionally illegal by the enactment of NRS 213.085 (1) (providing that a sentence of life without the possibility of parole for first-degree murder may not be commuted to a lesser sentence). Appellant's motion is without merit. In *Miller v. Warden*, 112 Nev. 930, 921 P.2d 882 (1996), we held that retroactive application of NRS 213.085(1) is unconstitutional. Accordingly, it has no application to appellant's sentence; he may still seek commutation.

Having reviewed the records on appeal, and for the reasons set forth above, we conclude that appellant is not entitled to relief and that briefing and oral argument are unwarranted. See *Lockett v. Warden*, 91 Nev. 681, 682, 541 P.2d 910, 911 (1975), cert. denied, 423 U.S. 1077 (1976). Accordingly, we

ORDER these appeals dismissed.¹

 Young	J.
 Shearing	J.
 Leavitt	J.

cc: Hon. Kathy A. Hardcastle, District Judge
Hon. Donald M. Mosley, District Judge
Hon. Frankie Sue Del Papa, Attorney General
Hon. Stewart L. Bell, District Attorney
Jimmie Davis
Shirley Parraquirre, Clerk

¹We have considered all proper person documents filed or received in these matters, and we conclude that the relief requested is not warranted.

CASE NO. C85078		TITLE STATE OF NEVADA VS JIMMIE DAVIS	
DATE, JUDGE OFFICERS OF COURT PRESENT	APPEARANCES — HEARING	CONTINUED TO:	
11-28-88 EARLE W WHITE, JR DEPT. IV J. HUFF, CLERK M. L. LONARD, RPTR C. AVERY, P&P	SENTENCING State represented by Rodney Burr, DDA. Deft Davis present in custody with Stephen Dahl, DPD. Mr. Dahl advised deft's parents are attempting to retain private counsel in this matter; requesting continuance. Mr. Burr had no objection to short continuance. COURT SO ORDERED.	12-12-88 @ 9 AM SENTENCING	
	CUSTODY		
12-12-88 EARLE W WHITE, JR DEPT. IV J. HUFF, CLERK L. BRENSKE, RPTR T. WOLFE, P&P	SENTENCING State represented by Gary Booker, DDA. Deft Davis present in custody with David Gibson, DPD. Deft adjudged guilty of FIRST DEGREE MURDER. Mr. Booker stated they will abide by the stipulation re sentencing. Statements by the deft and Mr. Gibson. Sentenced: LIFE WITHOUT POSSIBILITY OF PAROLE with 134 days credit for time served, in Nevada State Prison. Pay \$20 administrative assessment fee.		
8/4/89 EARLE E. WHITE, JR. DEPT. IV E. ALVAREZ CLERK L. BRENSKE REPORTER	<u>DEFENDANT'S PRO PER MOTION TO PROCEED IN FORMA PAUPERIS</u> <u>DEFENDANT'S PRO PER MOTION TO DISCHARGE ATTORNEY OF</u> <u>RECORD AND PRODUCTION OF ALL PAPERS, DOCUMENTS,</u> <u>PLEADINGS AND OTHER PROPERTY OF DEFENDANT</u> State represented by David Roger, DDA. Deft. Davis not present, represented by James Gubler, DPD. State has no objection to Deft's. motion; Mr. Gubler submitted on motions. Consequently, COURT ORDERED, Deft's. Motion to Proceed in Forma Pauperis and to Discharge Attorney of Record and for Production of all papers, documents, pleadings and other property of Deft. granted.	CUSTODY (IS)	
1-17-90 EARLE W WHITE JR DEPT. IV A. FUJII AND D. VINSON CLERK/dv L. BRENSKE REPORTER	<u>DEFENDANT'S PRO PER PETITION FOR POST-CONVICTION RELIEF</u> STATE REPRESENTED BY WILLIAM HENRY, DDA. DEFENDANT NOT PRESENT, BEING IN INDIAN SPRINGS. STATEMENT BY MR. HENRY. COURT ORDERED LEE MCMAHON TO BE APPOINTED AS COUNSEL OF RECORD. 1:30 PM THIS DATE, CLERK NOTIFIED MS. MCMAHON AS TO HER APPOINTMENT.	1-22-90 @ 9 AM CONFIRMATION OF COUNSEL (LEE MCMAHON) DEFT'S. PRO PER PETITION FOR POST- CONVICTION RELIEF	
1-22-90 EARLE W. WHITE JR. DEPT. IV A. FUJII D. VINSON CLERKS/dv L. BRENSKE REPORTER	CONFIRMATION OF COUNSEL <u>DEFENDANT'S PETITION FOR POST-CONVICTION RELIEF</u> STATE REPRESENTED BY JOHN HAM, DDA. DEFENDANT NOT PRESENT, BEING REPRESENTED BY LEE MCMAHON. MS. MCMAHON CONFIRMED AS COUNSEL AND REQUESTED A COPY OF THE TRANSCRIPT OF DEFENDANT'S GUILTY PLEA. COURT ORDERED MS. MCMAHON TO PREPARE ORDERS FOR CONFIRMATION OF COUNSEL AND REQUEST FOR TRANSCRIPT. MATTER CONTINUED FOR STATUS CHECK.	2-5-90 @ 9 AM STATUS CHECK	

MINUTES — CRIMINAL

CASE NO. C85078 TITLE THE STATE OF NEVADA VS. JIMMIE DAVIS

DATE, JUDGE OFFICERS OF COURT PRESENT	APPEARANCES — HEARING	CONTINUED TO:
2/05/90 EARLE W. WHITE, JR. DEPT IV ALONA FUJII CLERK LISA BRENSKE REPORTER	<u>STATUS CHECK</u> STATE REPRESENTED BY JOHN HAM, DDA. DEFENDANT NOT PRESENT, IN CUSTODY, AND NOT REPRESENTED. <u>COURT ORDERED</u> , MATTER OFF CALENDAR. CUSTODY (IS)	
4/16/90 EARLE W. WHITE, JR. DEPT IV ALONA FUJII CLERK LISA BRENSKE REPORTER	<u>DEFENDANT'S MOTION FOR BRIEFING SCHEDULE AND EVIDENTIARY</u> <u>HEARING ON DATE FOR POST-CONVICTION RELIEF</u> STATE REPRESENTED BY RANDALL WEED, DDA. DEFENDANT NOT PRESENT, IN CUSTODY, AND NOT REPRESENTED. <u>COURT ORDERED</u> , OFF CALENDAR.	

MINUTES — CRIMINAL

CRIMINAL COURT MINUTES

88-C-085078-C STATE OF NEVADA vs Davis, Jimmie

07/08/91 09:00 AM 00 PROPER PERSON MOTION TO DISMISS COUNSEL
AND FOR APPOINTMENT OF NEW COUNSEL

HEARD BY: GERARD J. BONGIOVANNI, Judge; Dept. 4

OFFICERS: JO ANN STEWART, Court Clerk
DONNA ANTONACCI, Reporter/Recorder

PARTIES: STATE OF NEVADA
000346 Mitchell, Scott S.

Y
Y

COURT NOTED THIS IS MS. MC MAHON'S CASE, AND COURT ORDERED MATTER CONTINUED
TO JULY 15, 1991 AT 9:00 A.M. CLERK TO NOTIFY MS. MC MAHON.

CUSTODY - IS

CONTINUED TO: 07/15/91 09:00 AM 01

07/15/91 09:00 AM 01 PROPER PERSON MOTION TO DISMISS COUNSEL
AND FOR APPOINTMENT OF NEW COUNSEL

HEARD BY: GERARD J. BONGIOVANNI, Judge; Dept. 4

OFFICERS: JO ANN STEWART, Court Clerk
MARTHA SMITH, Relief Clerk
DONNA ANTONACCI, Reporter/Recorder

PARTIES: STATE OF NEVADA
000398 Schwartz, David P.

N
Y

001 D1 Davis, Jimmie
001765 McMahan, Lee E.
002284 Bailus, Mark B.

N
Y
Y

Ms. McMahan advised Court she had no opposition to Defendant's Motion to
Dismiss Counsel. She further advised she has received a transcript of the
Sentencing, but has not received a transcript of the entry of plea. There
being no opposition by the State, COURT ORDERED Defendant's Pro Per Motion
to Dismiss Counsel and for Appointment of New Counsel GRANTED. COURT
further ORDERED Mark Bailus be appointed as counsel and a date set for
Confirmation of Counsel. Clerk to advise Mr. Bailus.

CUSTODY (INDIAN SPRINGS)

Confirmation of Counsel - 7/22/91 @ 9:00 a.m.

CONTINUED ON PAGE: 002

CRIMINAL COURT MINUTES

88-C-085078-C STATE OF NEVADA vs Davis, Jimmie
CONTINUED FROM PAGE: 001

07/22/91 09:00 AM 00 CONFIRMATION OF COUNSEL (BAILUS)

HEARD BY: GERARD J. BONGIOVANNI, Judge; Dept. 4

OFFICERS: JO ANN STEWART, Court Clerk
MARTHA SMITH, Relief Clerk
KRIS REMAKEL, Reporter/Recorder

PARTIES:	STATE OF NEVADA	N
000346	Mitchell, Scott S.	Y
001 D1	Davis, Jimmie	N
003848	Woolf, Catherine A.	Y

Ms. Woolf stated Mr. Bailus would confirm as counsel for the Defendant.

CUSTODY - INDIAN SPRINGS

02/26/92 09:00 AM 00 PETITION FOR POST CONVICTION RELIEF

HEARD BY: GERARD J. BONGIOVANNI, Judge; Dept. 4

OFFICERS: JO ANN STEWART, Court Clerk
DONNA ANTONACCI, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
001538	Hehn, William A.	Y
001 D1	Davis, Jimmie	N
002284	Bailus, Mark B.	Y

MR. BAILUS SAID HE WOULD LIKE THIS MATTER SET FOR AN EVIDENTIARY HEARING.
MR. HEHN SAID THE STATE NEEDS ADDITIONAL TIME TO RESPOND AND REQUESTED A
FOUR-WEEK CONTINUANCE. COURT ORDERED, MATTER CONTINUED FOR STATUS CHECK.
IF THE COURT FEELS THIS MATTER NEEDS AN EVIDENTIARY HEARING, IT WILL BE SET
NEXT COURT DATE.

CUSTODY - IS

STATUS CHECK (PETITION FOR POST-CONVICTION RELIEF) - 3/25/92 AT 9:00 A.M.

CRIMINAL COURT MINUTES

88-C-085078-C STATE OF NEVADA vs Davis, Jimmie
CONTINUED FROM PAGE: 002

03/25/92 09:00 AM 00 STATUS CHECK (PETITION FOR PCR)

HEARD BY: GERARD J. BONGIOVANNI, Judge; Dept. 4

OFFICERS: JO ANN STEWART, Court Clerk
DONNA ANTONACCI, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	000346 Mitchell, Scott S.	Y
	001 D1 Davis, Jimmie	N
	002284 Bailus, Mark B.	Y

COURT HEARD ARGUMENTS OF COUNSEL. COURT FINDS THERE IS NO NEED FOR AN EVIDENTIARY HEARING AND, COURT ORDERED, DEFENDANT'S PETITION FOR POST CONVICTION RELIEF IS DENIED. MR. BAILUS MOVED TO BE APPOINTED AS APPELLANT COUNSEL, AND BY THE COURT SO ORDERED.

CUSTODY (IS)

06/12/95 09:00 AM 00 ALL PENDING MOTIONS 6/12/95

HEARD BY: JOSEPH S. PAVLIKOWSKI, Judge; Dept. 3

OFFICERS: JOSEPHINE BOHN, Court Clerk
JAMES HELLESO, Reporter/Recorder

PARTIES:	STATE OF NEVADA	Y
	002028 Booker, Gary R.	Y
	001 D1 Davis, Jimmie	N
	002282 Ayers, Earl T.	Y

MARK B. BAILUS' MOTION TO WITHDRAW AS ATTORNEY OF RECORD...DEFENDANT'S PRO PER MOTION FOR WITHDRAWAL OF ATTORNEY OF RECORD AND TRANSFER OF RECORDS

COURT ORDERED, Motions GRANTED. Mr. Ayers to provide defendant with records.

NDP

CRIMINAL COURT MINUTES

88-C-085078-C STATE OF NEVADA vs Davis, Jimmie
CONTINUED FROM PAGE: 003

07/03/95 09:00 AM 00 DEPT'S PRO PER MOTION TO VACATE SENTENCE

HEARD BY: GERARD J. BONGIOVANNI, Judge; Dept. 4

OFFICERS: PONDA MEADOR, Court Clerk
LISA JOHNSON, Reporter/Recorder

PARTIES: STATE OF NEVADA Y
002028 Booker, Gary R. Y

State submitted matter. COURT ORDERED, Motion DENIED.

NDP

09/20/95 09:00 AM 00 ALL PENDING MOTIONS 9/20/95

HEARD BY: GERARD J. BONGIOVANNI, Judge; Dept. 4

OFFICERS: JOSEPHINE BOHN, Court Clerk
JoAnn Orduna, Reporter/Recorder

PARTIES: STATE OF NEVADA Y
004703 Mueller, Craig Y
001 D1 Davis, Jimmie N
PRO SE Pro Se Y

DEFENDANT'S PRO PER PETITION FOR WRIT OF HABEAS CORPUS...DEFENDANT'S PRO PER
MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS...DEFENDANT'S PRO PER MOTION
FOR APPOINTMENT OF COUNSEL

Mr. Mueller requested a continuance for the State to answer. COURT ORDERED,
CONTINUED.

NDP

9/27/95 9:00 AM ABOVE-LISTED MOTIONS

CONTINUED ON PAGE: 005